

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MICHAEL FEHRENBACHER

Plaintiffs,

v.

XYBERNAUT CORPORATION,  
EDWARD G. NEWMAN, STEVEN A.  
NEWMAN, THOMAS D. DAVIS, BRUCE  
C. HAYDEN, and GRANT THORNTON  
LLP,

Defendants.

Case No. 05-256-SLR  
STIPULATION AND [PROPOSED]  
ORDER EXTENDING TIME FOR  
DEFENDANT TO ANSWER OR  
OTHERWISE RESPOND

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned parties and/or their counsel for the respective parties, as follows:

1. Drinker Biddle & Reath LLP is authorized to accept on behalf of defendant Thomas D. Davis, and does hereby accept, service of the summons and complaint in this action without prejudice and without waiver of Thomas Davis's defenses except as to sufficiency of service of process;

2. The time for Thomas Davis to move, answer or otherwise respond to the complaint in this action is hereby extended to and including forty-five (45) days after the later of: (a) the Court's selection of a lead plaintiff pursuant to §21D(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. §78a, *et seq.*, as amended by the private Securities Litigation Reform Act of 1995 (the "PSLRA"), or (b) the date on which an amended consolidated complaint, if any, is served upon counsel for Thomas Davis.

Dated: June 28, 2005

Dated: June 29, 2005

CHIMICLES &amp; TIKELLIS LLP

DRINKER BIDDLE &amp; REATH LLP

By: Robert J. Kriner  
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--and--

*Plaintiff's Counsel*

DRINKER BIDDLE &amp; REATH LLP

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*Counsel for Defendant*  
*Thomas D. Davis*

SO ORDERED.

Dated: \_\_\_\_\_, 2005

\_\_\_\_\_  
United States District Judge